

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

CHARLES E. MOSES, JR.,
CDCR #K-65174,

Civil No. 13cv2610 LAB (MDD)

Plaintiff,

vs.

CYNTHIA WHITE,

Defendant.

ORDER:

(1) DISMISSING CIVIL ACTION AS DUPLICATIVE PURSUANT TO 28 U.S.C. § 1915A(b)(1); and

(2) DENYING MOTION TO PROCEED *IN FORMA PAUPERIS* AS MOOT

Plaintiff, a state inmate currently incarcerated at the California Medical Facility in
ville, California and proceeding pro se, has filed a civil rights Complaint pursuant to 42
. §1983. Plaintiff has not prepaid the \$350 filing fee mandated by 28 U.S.C. § 1914(a);
d, he has filed a Motion to Proceed *In Forma Pauperis* (“IFP”) [ECF No. 2].

I. Sua Sponte Screening Pursuant to 28 U.S.C. § 1915A(b)

27 The Prison Litigation Reform Act (“PLRA”), 28 U.S.C. § 1915A, obligates the Court to
28 review complaints filed by anyone “incarcerated or detained in any facility who is accused of,

1 sentenced for, or adjudicated delinquent for, violations of criminal law or the terms or conditions
 2 of parole, probation, pretrial release, or diversionary program," "as soon as practicable after
 3 docketing" and regardless of whether the prisoner prepays filing fees or moves to proceed IFP.
 4 See 28 U.S.C. § 1915A(a), (c). The Court must sua sponte dismiss prisoner complaints, or any
 5 portions thereof, which are frivolous, malicious, or fail to state a claim upon which relief may
 6 be granted. 28 U.S.C. § 1915A(b); *Resnick v. Hayes*, 213 F.3d 443, 446-47 (9th Cir. 2000).

7 Plaintiff's Complaint is subject to sua sponte dismissal pursuant to 28 U.S.C.
 8 § 1915A(b)(1) because it appears to be duplicative of a case Plaintiff has already litigated.
 9 Plaintiff's Complaint contains identical claims that are found in *Moses v. White*, S.D. Cal. Civil
 10 Case No. 12cv0073 JLS (BGS). A court "may take notice of proceedings in other courts, both
 11 within and without the federal judicial system, if those proceedings have a direct relation to
 12 matters at issue." *United States ex rel. Robinson Rancheria Citizens Council v. Borneo, Inc.*,
 13 971 F.2d 244, 248 (9th Cir. 1992).

14 A prisoner's complaint is considered frivolous under 28 U.S.C. § 1915A(b)(1) if it
 15 "merely repeats pending or previously litigated claims." *Cato v. United States*, 70 F.3d 1103,
 16 1105 n.2 (9th Cir. 1995) (construing former 28 U.S.C. § 1915(d)) (citations and internal
 17 quotations omitted). Because Plaintiff has already litigated the same claims presented in the
 18 instant action in *Moses v. White*, S.D. Cal. Civil Case No. 12cv0073 JLS (BGS), the Court
 19 hereby **DISMISSES** Civil Case No. 13cv2610 LAB (MDD) pursuant to 28 U.S.C.
 20 § 1915A(b)(1). See *Cato*, 70 F.3d at 1105 n.2; *Resnick*, 213 F.3d at 446 n.1.

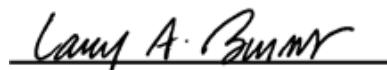
21 **II. Conclusion and Order**

22 Good cause appearing, **IT IS HEREBY ORDERED** that:

23 Plaintiff's Complaint in Civil Case No. 13cv2610 LAB (MDD) is **DISMISSED** as
 24 frivolous pursuant to 28 U.S.C. § 1915A(b)(1). Plaintiff's Motion for Leave to Proceed IFP is
 25 **DENIED** as moot. The Clerk shall close the file.

26 **IT IS SO ORDERED.**

27 DATED: November 8, 2013



28 **HONORABLE LARRY ALAN BURNS**
 United States District Judge